

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

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Maritza Briones,

Plaintiff,

v.

Texas Auto Pros, LLC,

Defendant.

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: Civil Action No.: 4:16-cv-01784  
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: **COMPLAINT**  
: **JURY**  
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For this Complaint, Plaintiff, Maritza Briones, by undersigned counsel, states as follows:

**JURISDICTION**

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (the "TCPA").
2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

**PARTIES**

3. Plaintiff, Maritza Briones ("Plaintiff"), is an adult individual residing in Magnolia, Texas, and is a "person" as the term is defined by 47 U.S.C. § 153(39).
4. Defendant, Texas Auto Pros, LLC ("TAP"), is a Texas business entity with an address of 646 S Texas 6, Houston, Texas 77079, and is a "person" as the term is defined by 47 U.S.C. § 153(39).

**FACTS**

5. In 2014, TAP began calling Plaintiff's cellular telephone, number 832-xxx-0453, from telephone number 281-829-8010 using an automatic telephone dialing system ("ATDS").

6. When Plaintiff answered calls from TAP, she heard a prerecorded message indicating that the call was for “Jose Tovar”.

7. Plaintiff never provided her cellular telephone number to TAP and never provided consent to receive automated calls from TAP.

8. Shortly after the calls began, Plaintiff spoke with a representative and advised TAP that she was being called in error. Plaintiff therefore demanded that the calls to her cellular telephone number cease.

9. Nevertheless, TAP continued to place automated calls to Plaintiff’s cellular telephone number.

**COUNT I**  
**VIOLATIONS OF THE TCPA – 47 U.S.C. § 227, ET SEQ.**

10. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

11. At all times mentioned herein, Defendant called Plaintiff’s cellular telephone number using an ATDS and/or using a prerecorded or artificial voice.

12. Defendant continued to place automated calls to Plaintiff’s cellular telephone number despite knowing that it lacked consent to do so. As such, each call placed to Plaintiff was made in knowing and/or willful violation of the TCPA, and subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

13. The telephone number called by Defendant was assigned to a cellular telephone service for which Plaintiff incurs charges pursuant to 47 U.S.C. § 227(b)(1).

14. Plaintiff was annoyed, harassed and inconvenienced by Defendant’s continued calls.

15. The calls from Defendant to Plaintiff were not placed for “emergency purposes” as defined by 47 U.S.C. § 227(b)(1)(A)(i).

16. As a result of each call made in negligent violation of the TCPA, Plaintiff is entitled to an award of \$500.00 in statutory damages for each call placed in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

17. As a result of each call made in knowing and/or willful violation of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays that judgment be entered against Defendant:

- A. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
- B. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C); and
- C. Such other and further relief as may be just and proper.

**TRIAL BY JURY DEMANDED ON ALL COUNTS**

Dated: June 21, 2016

Respectfully submitted,

By: /s/ Jenny DeFrancisco

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